IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 1904 of 2004

Between:

1 M/s. Vijayshree Electronics rep., by its Proprietor Sri Kishore Kumar Tiwari S/o. Late Rameshwarlal Tiwari,
4-4-464/1, Giriraj Lane, Sultan Bazar, Hyderabad.
2 Smt. Nirmala Devi B.Yadav W/o. Biharilal Yadav,
R/o.H.No.14-7-282, Shankar Bazar, Begum Bazar, Hyderabad.

..... PETITIONER(S)

AND

1 The Union of India, rep., by its Secretary, Ministry of Finance [Bank Division] Jeevandeep Building, Sansad Marg,
New Delhi.
2 M/s. Bank of India, having Zone at PTI Buildings [II Floor] A.C.Guards, Khairatabad, Hyderabad rep., by its
Authorized Officer & Zonal Manager.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or writs, order or direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the 2nd respondent Bank under the Impugned Notice dated 31.1.2003 directing the petitioners 1 and 2 to pay the alleged outstanding and the consequential letter dated 29.11.2003 thereby seeking to cause dispossession of the 1st petitioner concern under coercion from the

licensed premise forming part of the secured asset without following due process of law as contained in Law of Specific Relief, as without authority of law, while holding that enactment of the Securitisation and Reconstruction of Financial Asset and Enforcement of Security Interest Act, 2002, more particularly Section 13 to 19 & Sections 34 & 35 thereof are unconstitutional being self-contradictory, arbitrary, unreasonable, violating principles of natural justice, being without legislative competence and effacing the legislative function, infringing the Fundamental and Constitutional Rights as contained in Article 14, 19 (1) (g),21 and 300-A of the Constitution of India and the contractual right of the 1st petitioner concern under the Law of Specific Relief and negating the right of judicial remedy and judicial review offending the Basic Structure of Constitution of India.

Counsel for the Petitioners: MR.POCHAIAH DORISHETTI

Counsel for the Respondent No.1: MR.A.RAJASHEKAR REDDY (SC FOR CG)

Counsel for respondent no.2: Mr S.Suryaprakasa Rao

The Court made the following ORDER:

(per Hon'ble Sri Devinder Gupta, The Chief Justice)

In view of the decision of the Hon'ble Supreme Court in Transfer Case (Civil) No.92-95 of 2002, dated 8th April, 2004 [MARDIA CHEMICALS LTD v UNION OF INDIA & ORS], challenge to the provisions of the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not tenable and for that reason relief prayed for in this writ petition cannot be granted. Writ petition is, therefore, dismissed.

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DEVINDER GUPTA, CJ

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G.ROHINI, J

July 9, 2004.

nmr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Secretary, Union of India, Ministry of Finance [Bank Division] Jeevandeep Building, Sansad Marg, New Delhi.
2 Authorised Officer and Zonal Manager, M/s. Bank of India, having Zone at PTI Buildings [II Floor] A.C.Guards, Khairatabad, Hyderabad

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